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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,299	01/05/2004	Robert Rissone	3715-9	8799

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EXAMINER

VARNER, STEVE M

ART UNIT PAPER NUMBER

3635

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/751,299

Applicant(s)

RISSONE, ROBERT

Examiner

Steve M Varner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18 is/are allowed.
- 6) ☒ Claim(s) 1-7,9,12,17 and 19 is/are rejected.
- 7) ☒ Claim(s) 8,10,11,13-16 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Errata

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6, 9, 12, are rejected under 35 U.S.C. 102(b) as being anticipated by Corbo.

Regarding claim 1, Corbo shows a door threshold structure to be at least partially located beneath a door when the door is in a closed position, the door threshold structure comprising: a door threshold (C) including a main body; wherein, on at least one side of the main body of the door threshold, there are provided upper and lower members extending from the main body in spaced apart relation from one another so that the upper and lower members are at least partially substantially parallel to one another. Applicant does not claim a carpet; therefore, relationships to it need not be found (Fig. 1).

Regarding claim 2, Corbo shows wherein additional upper and lower members extend from the main body from another side thereof and define another gap therebetween. Applicant does not claim a carpet; therefore, relationships to it need not be found (Fig. 1).

Regarding claim 3, Corbo shows wherein the upper member is flexible (Col. 3, Line 0-10) and an end thereof is biased downwardly toward an end of the bottom

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member. Applicant does not claim a carpet; therefore, relationships to it need not be found (Fig. 1).

Regarding claim 6, Corbo shows a riser (B) located beneath the door threshold, wherein an upper surface of the riser and a lower surface of the door threshold are engaged in an interlocking manner so that the riser is used to adjust a height of the door threshold (Col. 3, Line 0-10) (Fig. 1, 2).

Regarding claim 9, Corbo shows an elongated first pan (B) mounted to opposing sides of a door frame (A), and further being located at least partially beneath the door threshold (C) so as to at least partially support the door threshold; the pan comprising first and second spaced apart vertically extending sidewalls (30); and wherein the door threshold is mounted on the pan between the first and second spaced apart vertically extending sidewalls of the pan (Fig. 1, 2).

Regarding claim 12, Corbo shows first and second spaced apart levelers (D) (There are more than one leveler (Col. 3, Line 0-10)), each of the first and second levelers comprising a screw (D) and a support member (40) threadedly engaged therewith, and wherein the screws of the levelers extend through respective apertures (46) in a base portion of the pan (B) and can be used to adjust a height of the door frame (Fig. 1, 2).

Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by Baczuk et al.

Regarding claim 19, Baczuk et al. shows a door threshold to be located at least partially under a bottom surface of a door when the door is in a closed position; an elongated pan (30) mounted to opposing sides of a door frame, and further being

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located at least partially beneath the door threshold (28); the pan comprising first and second spaced apart sidewalls (48, 46); and wherein the door threshold is mounted on the pan at least partially between the first and second spaced apart sidewalls of the pan (Fig. 2, 3, 5).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

See Figure 1 attached.

Claims 4, 5, 17, are rejected under 35 U.S.C. 103(a) as being unpatentable over Corbo.

Regarding claims 4, 5, Corbo shows wherein a base of the door threshold (C) comprises first and second feet (A, B) which are spaced apart from one another, each of the feet being at least part of a lower member. Corbo does not show a bottom surface that is saw-tooth shaped. Saw-tooth shaped surfaces are well known in the art. It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use saw-tooth shaped surfaces as are well known in the art in the structure of Corbo for a friction fit between first and second feet and (32) (Fig. 1).

Regarding claim 17, Corbo shows the basic claimed structure. Corbo does not show a wedge shaped shim located under both a door frame and at least part of the door threshold. Wedge shaped shims are well known in the art. It would have been

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obvious to one of ordinary skill in the art at the time the present invention was made to use a wedge shaped shim as is known in the art under the structure of Corbo to level the door frame (A) and the threshold (C) (Fig. 1).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Corbo in view of Headrick.

Regarding claim 7, Corbo shows the basic claimed structure. Corbo does not show wherein a sweep having a plurality of flexible fins is provided at the bottom of the door located above the threshold when the door is in the closed position. Headrick shows wherein a sweep (51) having a plurality of flexible fins is provided at the bottom of the door located above the threshold when the door is in the closed position (Fig. 4). It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use flexible fins as in Headrick in the structure of Corbo to form a seal between the base of the door and the threshold to keep out dust and dirt.

#### ***Claim Objections***

Claims 8, 10, 11, 13-16, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Allowed Claims***

Claim 18 is allowed.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kirk shows a door threshold poison bait station apparatus and

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method. Rissone shows a door bottom for allowing air passage. Wilbs et al. shows a joint masking device and method of assembling it. Bauman et al. shows a weeped end plug for sill assembly. Eagle shows an adjustable threshold. Procton et al. shows a threshold assembly with unitary molded substrate and jamb boot subassembly.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve M Varner whose telephone number is 703 308-1894. The examiner can normally be reached on M-F 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D Friedman can be reached on 703 308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SV



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600

